IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Trademark Application Serial No. 88454319 filed on May 31, 2019, Mark: "B" (Design)

Applicant: SoHo Beats, LLC 8 The Green, Suite #10201 Dover, DE 19901	))))))	Dyer, Erin Zaskoda Trademark Examining Attorney Law Office 103

Response To Non-Final Office Action Dated September 13, 2021

Hon'ble Examining Attorney was pleased to issue a Non-Final Office Action on September 13, 2021 whereby:

1. Hon'ble Examining Attorney required proof of Applicant's Domicile.
2. Trademark Application Serial # 88454319 was refused on the ground of Section 2(d) – Likelihood of Confusion as to Reg. Nos. 6054617, 5984571, 4537908, 4572603, 4529746, 3862142, 4035777, 4176105, 4361690, 4455269, 3532627, 4836986, 4314478, 4177191, 4314930, 4314931, 5161347, 5448731, 5428637, 4695868, 4937568, 5715751, 5715752, 5188070, 5273961, 4814903, 5028678, 5387349, 5387883 and 5396184.

The applicant respectfully submits its response as under:

ISSUE # 1: Requirement of Applicant's Domicile Address

In connection with the acceptable proof of domicile of a juristic entity, ***Examination Guide 4-19, Requirement of U.S.-Licensed Attorney for Foreign-Domiciled Trademark Applicants & Registrants***, at ***I(A)(2)(b)(ii)*** provides as under:

A current certificate of good standing for the corporation or other business entity issued by a federal or state government agency.

Accordingly, a digital copy of the Certificate of Good Standing issued by the Secretary of State, State of Delaware is submitted herewith as ***Exhibit A***.

This Certificate of Good Standing can be validated at https://corp.delaware.gov/authver.shtml (OR the direct URL: https://icis.corp.delaware.gov/ecorp2/services/validate) using Authentication Number: 203063059 and Corporation Number/Corporate File Number: 7416595.

ISSUE # 2: Section 2(d) – Likelihood of Confusion

The Applicant of Trademark Application No. 88454319 does not base its right to use the mark in question on the claim of dissimilarity of the mark or the goods/services. Rather, applicant's right is based on the fact that:

i. Beats Electronics, LLC, the registrant of the cited registrations ceased to exist as an operating business as early as the end of year 2014 *without assigning its trademark registrations and pending applications to any other person or entity.*

ii. As a result of the Registrant's cessation as a running business, as early as the end of year 2014, all trademark registrations and pending trademark applications belonging to the Registrant – Beats Electronics, LLC, including the cited marks, became ***null & void/abandoned*** by operation of law.

iii. After the shutdown/closure of Beats Electronics, LLC as an operational business, since the end of year 2014, all submissions and filings including §8 & §15 Affidavits and Declarations in connection with the cited registrations, have been made to the USPTO by Apple, Inc. without authority and by fraudulently impersonating as Beats Electronics, LLC.

iv. Since the procurement or maintenance/renewal of the cited registrations is the result of fraud by someone other than the Registrant/Applicant; therefore, ***the cited registrations are not covered or***

governed by the provisions of the Trademark Act 1946. The cases of the cited registrations are governed only by the State and Federal Criminal Laws.

v. Apple, Inc.'s fraudulent impersonation as Beats Electronics, LLC constitutes criminal offence against the systems, networks and processes of the USPTO which the USPTO is duty bound to report to the concerned investigation agencies and the law enforcement authorities.

vi. All the cited registrations merit removal from the Principal Register as having been procured or maintained by Fraudulent Criminal Impersonation by someone other than the Registrant/Applicant.

vii. Once the matter has been duly investigated; the perpetrators of criminal activities against USPTO's systems, networks and processes have been dealt with in accordance with the applicable laws and the cited registrations have been removed from the principal register as products of crime; the USPTO is bound to accept applicant's Trademark Application # 88454319.

Since it's an unusual case, therefore, before proceeding to the statement of detailed facts and the substantiating evidence the applicant finds it appropriate to explain its stance by quoting ***a hypothetical example*** as under:

1. An individual by the name John Doe is the Registrant/Owner of the character mark "ACME" for certain goods/services.
2. The Certificate of Registration issued to John Doe enjoys the presumptions and protections provided by the Trademark Act §7(b) (15 U.S.C. §1057(b)) as against every other claimant or user of the mark regarding the relevant goods/services.
3. In case John Doe procured the registration by making material misrepresentations with intent to defraud the USPTO then anyone covered by 15 U.S.C. §1064 has a right to challenge the validity

of the registration of the mark "ACME" by filing a Cancellation Petition before the Trademark Trial and Appeal Board because the petitioner is alleging ***fraud by the Registrant/Owner in the prosecution of his Trademark Application***. In this situation, TTAB has the subject matter jurisdiction to hear and adjudicate the matter.

4. If the cancellation-petitioner successfully proves his case then the TTAB has authority to cancel the registration. However, despite proof of the allegations of fraud the TTAB doesn't have jurisdiction to take any further step against John Doe because its jurisdiction is limited to the adjudication of the questions regarding registerability of trademarks and validity of registrations.
5. Now what happens; while the trademark registration was lawfully procured, John Doe dies (1) intestate; (2) leaving no legal heirs and (3) without assigning the trademark registration to anyone else.
6. After John Doe's death his startup becomes non-operational and consequently, the mark "ACME" becomes abandoned because its owner is no longer (1) able to use it in commerce or (2) to control its use by a licensee or a related company.
7. Later, someone by the name Mr. Smith learns about the existence of the mark and the death of John Doe. He plans to ***illegally*** take over the de facto ownership of the mark and to use it and its associated consumer base to his own benefit. With that end in view, Mr. Smith starts using the trademark "ACME" on his own goods & services and to keep the registration alive, files Affidavit of Continuous Use under The Trademark Act §8 (15 U.S.C. §1058) without disclosing its real identity and ***impersonating as John Doe***.
8. Mr. Smith's acts of (1) accessing USPTO's online system with an illegal design and (2) Fraud by Impersonation are both offences which are punishable under the Federal and State Criminal Laws. However, the TTAB has no subject matter jurisdiction over Mr. Smith's criminal actions because

(1) neither Mr. Smith is the Registrant, (2) nor Mr. Smith's illegal and criminal conduct can be characterized as *fraudulent misrepresentation* ***by the registrant*** *in the procurement of the registration in question*.

9. Consequently, the presumptions and protections provided by the Trademark Act §7(b) (15 U.S.C. §1057(b) are also not available to Mr. Smith as he is not the registrant/owner of the mark.
10. Now, suppose a third person by the name Mr. Bill files an application for a mark identical to the mark "ACME" and it's refused on the ground of §2(d) Likelihood of Confusion. In its response to the non-final office action *Mr. Bill (1) brings the facts of John Doe's death; resultant abandonment of the mark by operation of law and illegal* <u>*maintenance*</u> *and usage of the mark by Mr. Smith to the attention of the USPTO and (2) produces such evidence which reasonably demands and warrants further investigation of the matter*, *THEN*:
    i. USPTO has a legal duty to investigate the matter; notify Mr. Bill of the result of its investigation and to issue the final action in Mr. Bill's Trademark Application in the light of the outcome of the investigation.
    ii. Since USPTO is not a private business; rather, it's a Federal Agency mandated under the provisions of the Constitution of the United States; therefore, as the custodian of its systems and online networks, it has a duty to protect its systems, networks and processes against all illegal activities and usage and to report all criminal activities against its systems, networks and processes to the concerned Investigation and Law Enforcement Agencies. Any willful or inadvertent neglect or avoidance of this duty is unwarranted by law and it's also bound to damage the integrity of USPTO's systems and processes on one hand and the national economy and the public interest on the other hand.
    iii. In such a situation, closing eyes on Mr. Smith's criminal activities and forcing Mr. Bill to

> file cancellation petition before the TTAB would be (1) tantamount to extending the presumptions and protections provided by the Trademark Act 1946 for the benefit of the real Registrant/Owner of the mark to a person who has no ownership rights in the trademark and who is accused of Fraud by Impersonation AND (2) it would push the burden of USPTO's negligence and nonfeasance on to Mr. Bill in the form of loss of time, money and business which would be as much unjust as against public interest.

The Applicant presents the relevant facts and documents below and shows how the above-mentioned example fits the facts surrounding the Trademark Application Serial No. 88454319 and the cited registrations:

1. Beats Electronics, LLC, the registrant of the cited registrations, was an audio equipment business started by the legendary rapper and songwriter Dr. Dre and record producer Jimmy Iovine. This business was later acquired by Apple, Inc. in July 2014. [Exhibit - 1]
2. The above mentioned acquisition put Apple, Inc. in a complex dilemma. Apple's senior leadership wanted to (1) get rid of the overheads and expenses of a separate legal entity; (2) merge Beats Electronics, LLC into Apple, Inc. so as to turn BEATS brand into Apple's own *Line of Products*; BUT (3) it also wanted to cash in on the large fan base of Dr. Dre.
3. At this juncture, unlike a farm worker coming from a remote rural area with little or no understanding of business and trademark laws, Apple, Inc. enjoyed the knowledge and expertise of top corporate leadership and the advice & consultation of a whole team of experienced in house and external attorneys including specialized Trademark Attorneys.
4. The decision makers at Apple, Inc. knew very well that the trademarks owned by Beats Electronics, LLC were not available for use by Apple, Inc. for its own products unless the trademarks were formally

assigned by Beats Electronics, LLC to Apple, Inc. However, the formal change of ownership of the trademarks meant total devastation of the business plan because the fan base of Dr. Dre knew only Beats Electronics, LLC as the genuine maker of BEATS and DR. DRE brands. Back in the year 2014, Apple, Inc. was never known as a manufacturer of high end audio equipment like headphones and earphones.

5. Apple, Inc.'s decision makers, (1) knowing that trademark registrations are based on *continued actual use of the trademark in commerce by the owner of the registration or by a licensee or related company whose use of the mark is controlled by the owner of the mark as to the nature and quality of the products in connection with which the mark is used* and (2) knowing that discontinuation of Beats Electronics, LLC as an active and independent business entity would invalidate and cancel all the Trademark Registrations and Trademark Applications owned by Beats Electronics, LLC, moved forward with a full scale merger of the newly acquired LLC's business in to the parent company, Apple, Inc. As a result:

    i. Beats Electronics, LLC's Managing Body was dismantled:

        a) As per official record of Delaware Secretary of State, Luke Wood, who was president of Beats Electronics, LLC at the time of its acquisition by Apple, Inc. in July 2014, signed a Certificate of Merger on July 31, 2014 as president AND declared the principal place of business of the surviving company, i.e. Beats Electronics, LLC as 8600 Hayden Place, Culver City, CA 90232. [Exhibit 20]

        b) Since the process of discontinuation of Beats Electronics, LLC had started immediately after its acquisition by Apple, Inc.; therefore, immediately after July 31, 2014, Luke Wood lost Presidentship of Beats Electronics, LLC and became an employee of Apple, Inc.

        c) Only 4 days later, on August 4, 2014, another Certificate of Merger was filed with Delaware Secretary of State which was signed by Gene Daniel Levoff, the then Director of Corporate Law at Apple, Inc., using the title of "Manager" on

behalf of Beats Electronics, LLC. Further, this Certificate of Merger declared the principal place of business of the surviving company, i.e. Beats Electronics, LLC as 1 Infinite Loop, Cupertino, CA 95014, i.e. the head office of Apple, Inc. [Exhibit 21]

d) Later, on January 9, 2015, the same Gene Daniel Levoff signed 14 Agreements of Assignment of Patents from Beats Electronics, LLC to Apple, Inc.; signed them using the title of president of Beats Electronics, LLC. *setting the effective date of each assignment as September 1, 2014*. This clearly demonstrates that the decision makers at the parent company Apple, Inc. intended and planned that Beats Electronics, LLC must cease to exist as an active and operational business entity before September 1, 2014. [Exhibits 6 – 19]

e) Since Beats Electronics, LLC was discontinued as an operating business; therefore, even the founders of Beats Electronics, LLC were taken on Apple's payroll as the employees of Apple, Inc. The same was reported by Apple, Inc. in its 10-K report filed with SEC as under:

> *On July 31, 2014, in connection with its acquisitions of Beats Music, LLC and Beats Electronics, LLC (collectively "Beats"), the Company issued approximately 5.1 million shares of its common stock to certain former equity holders of Beats in reliance on the exemption from registration pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended.* ***The majority of these shares will vest over time based on continued employment with APPLE***. [Exhibit 22, page 24]

ii. Beats Electronics, LLC's Human Resources Department and Payroll were abolished. Those of the Beats' employees, who could be a valuable addition to Apple's own teams,

were formally hired by Apple, Inc. as its own employees and the rest were laid off. [Exhibit - 2]

6. As a part of the above mentioned merger, the website of Beats Electronics, LLC www.beatsbydre.com was also taken over by Apple, Inc. The copyright notice of Beats Electronics, LLC [Exhibit – 5] was replaced with Apple, Inc.'s own copyright notice [Exhibit – 1]
7. Completion of the merger of the business before the end of year 2014 effectively marked the total discontinuation and death of Beats Electronics, LLC *as an independent business entity*.
8. The above mentioned measures reduced Beats Electronics, LLC to a mere name registered in the State of Delaware. However, the name of Beats Electronics, LLC was all what the decision makers at Apple, Inc. needed to implement their illegal and unethical business strategy:
    i. Apple, Inc. would itself manufacture all Beats Products as its own product-line under its exclusive control.
    ii. The name "Beats Electronics, LLC" would be used with USPTO (1) to maintain the existing Trademark Registrations; (2) to pursue the pending Trademark Applications and (3) to file new Trademark Applications in the name of Beats Electronics, LLC as and when needed. *Hence, since September 1, 2014 or at least since before the end of that year, each filing and submission by Apple, Inc. to the USPTO in the name of Beats Electronics. LLC constitutes an independent instance of Fraud by Impersonation.*
    iii. Apple, Inc. would push its own products in the market under the trademarks owned by Beats Electronics, LLC without disclosure of the fact that Beats Electronics, LLC was neither a manufacturer nor did it actively control the specifications, nature and quality of the products. This was a deliberate way of cheating the consumers who trusted Beats Electronics, LLC as the manufacturer of BEATS products and who had an emotional attachment with its founder Dr. Dre.

9. The demise and discontinuation of Beats Electronics, LLC mentioned above was admitted by Apple, Inc. in a class action titled *Morgan v Apple, Inc.* in the *U.S. District Court, Northern District Of California (Case 3:17-cv-05277)*. The plaintiffs brought this action on the ground that POWERBEATS (*a product that used two trademarks owned by Beats Electronics, LLC. The character mark POWERBEATS, Trademark Registration # 4937568 and the design mark*  *, Trademark Registration # 3881677*) was defective and not as advertised [Exhibit - 3]. Since a trademark can only be used by its owner or by its related company whose use of the mark is controlled by the owner of the trademark, therefore, Beats Electronics, LLC had not just an interest in the outcome of the legal action, rather, Beats Electronics, LLC was a necessary party and the primary defendant. However, the defendant Apple, Inc., in its Certificate of Interested Entities [Exhibit - 4], declared as under:

    a. *Pursuant to Civil Local Rule 3-15, Defendant Apple Inc., by and through its undersigned attorney also certifies as of this date,* ***other than the named parties, there is no such interest to report****.*

10. Apple, Inc.'s declaration to the effect that it was the sole interested party in the matter of a trademark that was *apparently* owned by Beats Electronics, LLC is a clear admission that (1) Beats Electronics, LLC had practically ceased to exist as an operating business and an active and independent legal entity AND (2) that BEATS products belonged to Apple, Inc. in its own right.

11. *As Beats Electronics, LLC ceased to exist as an active business entity, by operation of law, all its Trademark Registrations and pending Trademark Applications became invalid and abandoned because the owner of the marks and the applications became unable to use the marks in commerce or to control the use of the marks by a related company.*

12. After demise of Beats Electronics, LLC, in furtherance of its illegal and unethical plan, on March 18, 2015 Apple, Inc., a large corporation with a huge team of attorneys and deep pockets for litigation; confident that no person or business entity could challenge its illegal actions and criminal conduct in a

meaningful way; took over all the registrations and registration applications previously owned by Beats Electronics, LLC, by criminal impersonation. Some of Apple, Inc.'s Attorney-Employees, working under instructions of and in connivance with the officers and directors of Apple, Inc., impersonated as representing the demised entity, i.e. Beats Electronics, LLC and filed ***PTO Form 2196 - Revocation of Attorney and/or Appointment of Attorney*** in 41 completed and pending Trademark Applications and thereby appointed some other employees of Apple, Inc. as Attorneys. *Thenceforth, each submission, filing, affidavit, signing of declaration of truth and communication with the USPTO was done under the cover of criminal impersonation and it continues to date.*

13. Later, at different times, Attorney-Employees of Apple, Inc. have filed a large number of new Trademark Applications while criminally impersonating to be representing Beats Electronics, LLC; an entity that has no existence except a name on papers.

14. As a result of the criminal impersonation referred to in the preceding paragraphs, all the Registrations/Maintenance/Renewals and the pending applications apparently belonging to Beats Electronics, LLC are void and subject to revocation/cancellation under the State and Federal Criminal Laws as being products of crime, without recourse to the provisions of The Trademark Act of 1946 relating to the cancellation of registrations.

15. At this point, it's important to note that a subsidiary Limited Liability Company is a legal entity separate from and independent of its parent company. Both have their own rights, liabilities and spheres of action. In no circumstances does a parent company have a right to ***impersonate as the subsidiary Limited Liability Company*** and to engage in acts and conduct which amount to deceiving the government institutions/authorities AND the consumers on one hand and which create rights and liabilities in the name of the subsidiary LLC on the other hand, all for the parent company's own benefit.

16. It's important and interesting to note here that while impersonating as representing Beats Electronics, LLC the Employee-Attorneys of Apple, Inc. unambiguously declared that they were acting in their

capacity of being employees of Apple, Inc. (how daring). Of course, Apple, Inc. is not a law firm and if an attorney claims to be acting in his capacity of being an employee of Apple, Inc. then it means that he/she admits that he/she is getting instructions from his/her employer, i.e. Apple, Inc. For detail of the information that they entered in the USPTO's system please see the prosecution history of each of the cited registrations.

17. The official record of Civil Complaint # 20STCV33933 in the Superior Court of California, County of Los Angeles shows that the said civil action was contested and decided with the Registrant of the cited registrations, *Beats Electronics, LLC of Delaware* (of course, it's a name being used by Apple, Inc.) as the defendant and a business with the same name registered in the State of California, as the plaintiff, i.e. Beats Electronics, LLC of California (***Beats California***) v Beats Electronics, LLC of Delaware (***Beats Delaware***).

18. In the above-mentioned Civil Complaint # 20STCV33933 both the parties exchanged many motions, responses and replies and both parties filed many documents as exhibits. Despite a tough battle, both parties appear to admit the truth and validity of the copies of the record of the California Secretary of State and California Franchise Tax Board filed by both the parties.

19. *Beats California*, the plaintiff in the said action, lost the case and filed 4 separate but identical Cancellation Petitions against 4 of the registrations issued in the name of *Beats Delaware*, i.e. Cancellations # 92077940, 92077945, 92077974 and 92077941 *(each of the challenged registrations is included in the cited registrations).* The petitioner also filed some of the record of the civil court as exhibits to its Cancellation Petitions.

20. In return, *Beats Delaware* filed motions to dismiss the cancellation petitions and filed the complaint in Civil Action # 20STCV33933 as an exhibit to its FRCP 12(b)(6) motions before the TTAB.

21. The record of both these Civil and TTAB proceedings perfectly prove Applicant SoHo Beats, LLC's case that (1) *Beats Delaware* was discontinued as an operating business immediately after its acquisition

by Apple, Inc. in 2014; (2) since before the end of year 2014, the products bearing BEATS marks are being produced by Apple, Inc. without any control by *Beats Delaware* as to the nature and quality of the products in connection with which the BEATS marks are used; (3) the reason for and the nature of **cessation of *Beats Delaware's* business** was ***its merger with Apple, Inc***. Below is a list of the relevant documents and the highlights of their contents:

1. **Exhibit 23**, *"a letter/report issued by the California Franchise Tax Board"* which says that:

   (1) *Beats Delaware's* foreign LLC registration in the State of California was *FORFEITED* by the California Franchise Tax Board on 11/1/2019 and that (2) **the last return filed by *Beats Delaware* before its afore-mentioned forfeiture related to the year 2014**.

2. **Exhibit 24**, *"Certificate of Status issued by California Secretary of State"* which endorses the contents of Exhibit 23.

3. **Exhibit 25**, *Name Change Amendment filed by Beats Delaware in the office of California Secretary of State:*

   whereby it changed its name in California from Beats Electronics, LLC to Beats Electronics ONE, LLC

4. **Exhibit 26**, *"Memorandum of Points and Authorities in Support of Defendant's Special Motion to Strike (CCP §425.16)"* filed by Beats Delaware in Civil Complaint # 20STCV33933.

   On page 6, it says:

It is of no significance to the instant motion but ***Beats maintains that as an out-of-state holding company doing no business in the State of California it had no obligation to maintain its California registration.***

5. **Exhibit 27**, "*Memorandum of Points & Authorities in Support of Demurrer to AND Motion to Strike Certain Portions of Plaintiff's Complaint*" filed by Beats Delaware in Civil Complaint # 20STCV33933.

    i. On page 6, it says:

    Beats, which was established over a decade ago ***as the brainchild of legendary artist Dr. Dre and producer Jimmy Iovine,*** *is the owner of federally registered trademarks associated with the manufacture, promotion and sale of high-quality consumer audio products.*

    ii. On page 7, it says:

    It is of no significance to the instant motion but ***Beats maintains that as an out-of-state holding company doing no business in the State of California it had no obligation to maintain its California registration.***

    iii. On page 18, it says:

    There are no allegations in the Complaint, nor can there be, that Apple took any property belonging to Plaintiff. ***At most, Plaintiff's claims can be interpreted as alleging that Apple failed to file requisite returns with the FTB.***

6. **Exhibit 28**, "*Reply in Support of Demurrer and Motion to Strike*" filed by Beats Delaware in Civil Complaint # 20STCV33933.

    i. On page 4, it says:

Beats had no choice but to restore its status in response to the instant litigation because California law provides that a suspended entity cannot defend an action. See e.g., Tabarrejo v. Sup. Ct., 232 Cal. App. 4th 849, 862 (2014) (during a period of suspension a corporation may not prosecute or defend an action). ***Beats otherwise had no obligation to restore its status as it ceased all intrastate business activities in California shortly after it was acquired by Apple in 2014***.

ii. On page 5, it says:

This is because ***Beats, after it was acquired by Apple Inc., became an out-of-state holding company that does no intrastate business in the State of California***.

iii. On page 8, it says:

Plaintiff cannot possibly do so here, particularly given that ***Beats does not conduct any business in California, much less "intrastate business"*** *as defined in the RULLC.*

7. **Exhibit 29**, *"FRCP 12(b)(6) Motion to Dismiss"* filed by *Beats Delaware* in Cancellation No. 92077940. (*It filed identical motions in other three Cancellations # 92077945, 92077974 and 92077941*)

i. On page 3, it admits that after *Beats Delaware's* acquisition by Apple, Inc. in 2014, *Beats Delaware* was reduced to a "*holding company*" (holding what? nothing except the BEATS trademark registrations and applications) and that Apple, Inc. used the BEATS trademarks as the "*operating company*":

Petitioner apparently is unaware that operating companies often place ownership of their trademarks in a holding company, often in a different state, and that the operating company's use of those marks inures to the benefit of the holding company as owner. In

such situations, it is commonplace for the operating company to assist in the maintenance of the holding company's trademark portfolio. ***Using this common structure, Apple has made extensive use of the BEATS marks since acquiring them in 2014,*** *and Apple's attorneys, who are familiar with Apple's use of the BEATS marks, have assisted Beats in maintaining its BEATS registrations.*

ii. On page 4, it explains that *the reason for and nature of the "cessation of business" of Beats Delaware was its "****merger into Apple, Inc.****":*

> *Amidst this unremarkable background, the Petition attempts to construct an alternate universe in which Beats ceased use of some of the most famous and valuable trademarks in the world* ***merely by merging with Apple****.*

22. Apart from the ***Federal and State laws applicable to unauthorized, illegal and criminal access and use of USPTO's systems, networks and processes***; the USPTO's *Terms of* Use provide as under:

    a. *Unauthorized attempts to upload information or change information are strictly prohibited and may be punishable under the United States criminal code (18 U.S.C. § 1030).* ***Information regarding possible violations of law may be provided to law enforcement officials.***

23. The exhibits referenced above and submitted along with this response fully substantiate Applicant's allegations and warrant a thorough investigation of the matter. Therefore, in view of the above submissions, the responding applicant respectfully requests that the criminal activity of Apple's officers, directors, attorneys and other employees who planned, authorized, perpetrated, abetted, connived or acquiesced in commission of any offence/criminal act as stated above, may kindly be formally investigated; the offenders be prosecuted and punished to the maximum extent of law; the cited registrations and pending applications apparently belonging to Beats Electronics, LLC may

kindly be annulled and revoked as the products of crime; the Trademark Application Serial # 88454319 may kindly be accepted and applicant's mark may kindly be registered.

24. The Applicant further requests that:

i. The Examining Attorney refer the matter to the officials responsible for taking action in such a situation;

ii. In case, for any reason, the Examining Attorney in unable to refer the matter to the concerned officials; then the name and contact info of the concerned department within OR outside of USPTO may kindly be provided to the Applicant.

iii. In the meanwhile, the proceedings in this Trademark Application Serial # 88454319 may kindly be suspended.

Respectfully submitted,

/Khalid Mian/

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Dated: March 11, 2022